



**PARTIES**

1. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 1, and on that basis denies all allegations of paragraph 1.

2. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 2, and on that basis denies all allegations of paragraph 2.

3. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 3, and on that basis denies all allegations of paragraph 3.

4. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 4, and on that basis denies all allegations of paragraph 4.

5. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 5, and on that basis denies all allegations of paragraph 5.

6. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 6, and on that basis denies all allegations of paragraph 6.

7. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 7, and on that basis denies all allegations of paragraph 7.

8. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 8, and on that basis denies all allegations of paragraph 8.

9. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 9, and on that basis denies all allegations of paragraph 9.

10. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 10, and on that basis denies all allegations of paragraph 10.

11. Yelp admits the allegations in paragraph 11.

12. Yelp lacks sufficient information to form a belief as to the truth of the allegations

recited in paragraph 12, and on that basis denies all allegations of paragraph 12.

13. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 13, and on that basis denies all allegations of paragraph 13.

14. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 14, and on that basis denies all allegations of paragraph 14.

15. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 15, and on that basis denies all allegations of paragraph 15.

16. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 16, and on that basis denies all allegations of paragraph 16.

17. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 17, and on that basis denies all allegations of paragraph 17.

18. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 18, and on that basis denies all allegations of paragraph 18.

19. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 19, and on that basis denies all allegations of paragraph 19.

20. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 20, and on that basis denies all allegations of paragraph 20.

21. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 21, and on that basis denies all allegations of paragraph 21.

22. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 22, and on that basis denies all allegations of paragraph 22.

23. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 23, and on that basis denies all allegations of paragraph 23.

24. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 24, and on that basis denies all allegations of paragraph 24.

25. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 25, and on that basis denies all allegations of paragraph 25.

26. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 26, and on that basis denies all allegations of paragraph 26.

27. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 27, and on that basis denies all allegations of paragraph 27.

#### **JURISDICTION AND VENUE**

1. Yelp admits that WebMap's action purports to arise under the patent laws of the United States, Title 35 of the United States Code and that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). Yelp admits that it is subject to personal jurisdiction within this district. Yelp admits that it maintains a website accessible within this district. Yelp denies that its web site infringes United States Patent No. 6,772,142 ("the '142 Patent"). Yelp denies the remaining allegations as to itself in paragraph 1. To the extent the allegations of paragraph 1 are directed to other entities, Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 1, and on that basis denies them.

2. Yelp admits that venue in this Judicial District complies with the requirements of 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). Yelp denies that venue is convenient or otherwise appropriate in this venue. Yelp denies the remaining allegations as to itself in paragraph 2. To the extent the allegations of paragraph 2 are directed to other entities, Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 2, and on that basis denies them.

**COUNT I**

**ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,772,142**

3. Yelp admits that United States Patent No. 6,772,142 (“the ’142 Patent”) is titled “Method and Apparatus for Collecting and Expressing Geographically-Referenced Data,” that it appears on its face to have issued on August 3, 2004 from an application filed October 31, 2000, and that it lists on its face the Cornell Research Foundation, Inc. and the National Audubon Society, Inc. as assignees of the patent. Yelp admits that Exhibit A to WebMap’s Complaint, Amended Complaint, and Second Amended Complaint appears to be a true and correct copy of the ’142 Patent. Yelp lacks sufficient information to form a belief as to the truth of the remaining allegations recited in paragraph 3, and on that basis denies the remaining allegations of paragraph 3.

4. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 4, and on that basis denies all allegations of paragraph 4.

5. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 5, and on that basis denies all allegations of paragraph 5.

6. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 6, and on that basis denies all allegations of paragraph 6.

7. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 7, and on that basis denies all allegations of paragraph 7.

8. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 8, and on that basis denies all allegations of paragraph 8.

9. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 9, and on that basis denies all allegations of paragraph 9.

10. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 10, and on that basis denies all allegations of paragraph 10.

11. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 11, and on that basis denies all allegations of paragraph 11.

12. Yelp denies all allegations of paragraph 12.

13. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 13, and on that basis denies all allegations of paragraph 13.

14. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 14, and on that basis denies all allegations of paragraph 14.

15. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 15, and on that basis denies all allegations of paragraph 15.

16. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 16, and on that basis denies all allegations of paragraph 16.

17. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 17, and on that basis denies all allegations of paragraph 17.

18. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 18, and on that basis denies all allegations of paragraph 18.

19. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 19, and on that basis denies all allegations of paragraph 19.

20. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 20, and on that basis denies all allegations of paragraph 20.

21. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 21, and on that basis denies all allegations of paragraph 21.

22. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 22, and on that basis denies all allegations of paragraph 22.

23. Yelp denies all allegations of paragraph 23 with respect to itself. Yelp lacks sufficient information to form a belief as to the truth of the remaining allegations recited in paragraph 23, and on that basis denies the remaining allegations of paragraph 23.

24. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 24, and on that basis denies the allegations of paragraph 24.

25. Yelp denies all allegations of paragraph 25 with respect to itself. Yelp lacks sufficient information to form a belief as to the truth of the remaining allegations recited in paragraph 25, and on that basis denies the remaining allegations of paragraph 25.

26. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 26, and on that basis denies the allegations of paragraph 26.

27. Yelp admits that WebMap purports to seek and/or reserve the right to seek a willfulness finding against Defendants relative to their infringement of the '142 patent. Yelp lacks sufficient information to form a belief as to the truth of the remaining allegations recited in paragraph 27, and on that basis denies the remaining allegations of paragraph 27.

28. Yelp lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 28, and on that basis denies the allegations of paragraph 28.

### **AFFIRMATIVE DEFENSES**

As further answer and as affirmative defenses, Yelp alleges the following:

#### **FIRST AFFIRMATIVE DEFENSE – NON-INFRINGEMENT**

29. Yelp has not infringed and does not infringe any valid claim of the '142 Patent.

#### **SECOND AFFIRMATIVE DEFENSE – INVALIDITY**

30. Yelp is informed and believes, and based thereon alleges, that one or more of the

claims of the '142 Patent are invalid for failure to satisfy the conditions of patentability set forth in 35 U.S.C. § 101 *et seq.*

**THIRD AFFIRMATIVE DEFENSE – PROSECUTION HISTORY ESTOPPEL**

31. Yelp is informed and believes, and based thereon alleges, that WebMap is barred or limited from recovery in whole or in part by the doctrine of prosecution history estoppel.

**FOURTH AFFIRMATIVE DEFENSE – LACK OF NOTICE**

32. Yelp is informed and believes, and based thereon alleges, that WebMap is barred or limited from recovery in whole or in part by the failure to provide actual or constructive notice as required by 35 U.S.C. § 287.

**FIFTH AFFIRMATIVE DEFENSE – LACHES, ESTOPPEL, WAIVER, UNCLEAN HANDS**

33. Yelp is informed and believes, and based thereon alleges, that WebMap's claims are barred in whole or in part by the doctrines of laches, estoppel, waiver and/or unclean hands.

**SIXTH AFFIRMATIVE DEFENSE – LACK OF STANDING**

34. Yelp is informed and believes, and based thereon alleges, that WebMap lacks standing to assert the claims alleged in the Complaint and/or has failed to join all necessary and indispensable parties under FED. R. CIV. P. 19(a).

**OTHER AFFIRMATIVE DEFENSES**

35. Yelp reserves the right to assert additional affirmative defenses during or upon the completion of discovery.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant Yelp respectfully requests that the Court enter judgment in favor of Yelp on the foregoing and enter a judgment granting the following relief:

- A. That the Court dismiss WebMap's Complaint;
- B. That the Court dismiss WebMap's claims in their entirety, with prejudice;
- C. That the Court find that WebMap is not entitled to any of its requested relief, or any relief whatsoever;



D. That the Court find and declare that the asserted claims of U.S. Patent No. 6,772,142 are invalid;

E. That the Court find and declare that Yelp has not infringed, and is not now infringing, any valid claims of U.S. Patent No. 6,772,142, under any subsection of 35 U.S.C. § 271;

F. That the Court find this to be an exceptional case entitling Yelp to an award of attorneys fees, expenses, and costs pursuant to 35 U.S.C. § 285; and

G. That the Court award Yelp such other and further relief as the Court deems just and appropriate.

**DEMAND FOR JURY TRIAL**

Yelp hereby demands a trial by jury for all issues so triable.

Dated: June 28, 2010

COOLEY LLP

/s/ Timothy S. Teter

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*Attorneys for Defendant Yelp! Inc.*

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 28<sup>th</sup> day of June, 2010.

/s/ Timothy S. Teter